IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

WP(C).No. 24650 of 2007(H)

PETITIONER:

SAJI THOMAS,
KANDANTHODU HOUSE, PERUNNAI EAST, CHANGANACHERRY.

BY ADV. SRI.P.SATHISAN

RESPONDENTS:
---

1. VIJAYAN,
KSBMVS, KALLUPURACKAL BUILDING,MARKET JN.,KOTTAYAM

2. ASHRAF,
KSBMVS, KALLUPURACKAL BUILDING,MARKET JN.,KOTTAYAM

3. RAJUKRISHNAN,
KSBMVS, KALLUPURACKAL BUILDING,MARKET JN.,KOTTAYAM

4. SUNNY,
KSBMVS, KALLUPURACKAL BUILDING,MARKET JN.,KOTTAYAM

5. SUB INSPECTOR OF POLICE, CHANGANASSERY.

BY GOVT. PLEADER SRI.P.A.SALIM – R5.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS.

EXT.P1 - TRUE COPY OF THE DEED OF PARTNERSHIP PERTAINING TO THE BUSINESS.

EXT.P2 - TRUE COPY OF THE JUDGMENT IN CRIMINAL APPEAL 385/2003 DATED 25.5.2004.

EXT.P3 - TRUE COPY OF THE FIR NO.469/2007 DATED 3.8.2007.

EXT.P4 - TRUE COPY OF THE REPRESENTATION DATED 7.8.2007.

/TRUE COPY/

K.BALAKRISHNAN NAIR &

HARUN-UL-RASHID, JJ.

W.P.(C) NO. 24650 OF 2007-H

Dated 20th August, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioner is a businessman. He runs chitties under the name and style "Kadanthottu Chitty Funds". On a complaint filed by him under Section 138 of the Negotiable Instruments Act, the 1st respondent herein was convicted and the conviction was affirmed by the Sessions Court also, as evident from Ext.P2 judgment. Infuriated by the same, the 1st respondent and his supporters , who are respondents 2 to 4 are physically threatening him. They are trying to interfere with his business also. On the basis of the manhandling of the petitioner on 2.8.2007, he lodged an information before the police on 3.8.2007, from Udayagiri Hospital, Changanassery. Ext.P3 crime was registered against respondents 1 to 4 and others. Even thereafter, when the threat continued, the petitioner submits, he filed Ext.P4 representation before the police on 7.8.2007, seeking protection to his life and his business. Alleging that the police is not taking any action, this writ

petition is filed.

2. The learned Government Pleader, upon instructions, submitted that the crime registered as per Ext.P3 has since been referred, on finding that the allegations are false. He also submits that there is no threat to the life of the petitioners as alleged.

3. If the crime registered as per Ext.P3 is referred, the petitioner has remedies against it under the Criminal Procedure Code. If the party respondents are obstructing his business, the petitioner can move the civil court also for appropriate reliefs. But, if any real threat to his life is apprehended, the petitioner may move the 5th respondent. In that event, the said respondent will look into the same and if the apprehension is found to be genuine, shall extend protection to the life of the petitioner.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

HARUN-UL-RASHID, JUDGE.

Nm/